

IMPLEMENTING UN SECURITY COUNCIL RESOLUTIONS 660 - 678: THE SINGAPORE EXPERIENCE¹

The invasion of Kuwait by Iraq on 2 August 1990 triggered a string of Security Council resolutions that was unprecedented. **Military** forces were despatched by the allied nations under the auspices of the United Nations (the "UN") to enforce economic sanctions against Iraq. Singapore's response to the major resolutions are examined, in particular, the freezing of Kuwaiti and Iraqi assets. As a small state, there are valuable lessons that Singapore can learn from the Gulf conflict.

I. INTRODUCTION

IRAQ invaded Kuwait on 2 August 1990. Condemnation by the international community of this act of aggression was swift.² That the invasion was a breach of the principles of the United Nations Charter ("the Charter") and of international law was indisputable. Clearly, Iraq had violated Article 2(4) of the Charter which reads: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."³

The adoption of the Charter in 1945 laid down, for the first time, a set of fundamental principles governing State action and established the main goals of international organisations. It imposes on member states to settle

¹ The views expressed here are entirely in my own personal capacity.

² Press Releases from the United States Government deplored "the blatant use of military aggression ..." and condemned the "outrageous act of aggression". Singapore condemned the invasion as being in "... blatant disregard of the UN Charter ... and is a threat to the security of small states everywhere." (MFA Press Release, 2 August 1990). However, only 14 out of 21 member states of the Arab League signed a resolution condemning the invasion. See *The Sunday Times*, 12 August 1990.

³ This is an innovation in the law. It talks about "force" rather than "war". Even a "threat of use of force" is unlawful. Armed reprisals or other forms of armed intervention were not prohibited by the law of the League of Nations. See Sir Humphrey Waldock, 106 *Collected Courses Academy of International Law (1962-II)*, p. 231. The precise scope of the permissible limit of use or threat of use of force is still a matter of debate. The literature on this is enormous. See T.O. Elias, "Scope and Meaning of Article 2(4) of the United Nations Charter" in Bin Cheng and E.D. Brown eds., *Essays in Honour of Georg Schwarzenberger* (1988), pp. 70-85, for a refreshing summary.

their disputes, political or legal, by peaceful means. In Article 2(3), it further stipulates that such a settlement should be "in a manner that international peace and security, and justice are not endangered."

The Charter envisages a system of collective security, the Security Council and General Assembly being charged with the responsibility to maintain international peace and security, with the Security Council having the primary role in this regard. Thus by Article 24⁴ the Security Council is empowered to investigate any dispute or situation "the continuance of which is likely to endanger the maintenance of peace and security." It therefore could step in to prevent a situation from deteriorating thereby endangering international peace and security.

II. RESOLUTIONS ON THE GULF CRISIS

Between 2 August 1990 and 11 October 1991, the 15-member United Nations Security Council (the "UNSC") passed a total of 23 resolutions on the Gulf crisis.⁵ The authority of the Security Council to pass such resolutions is found in Article 39, Chapter VII of the Charter. "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security." Articles 41 and 42 spell out the use of non-military as well as military measures. The basic principle contained in Article 42 enables the Security Council to "... take such action by air, sea or land forces as may be necessary to maintain or restore international peace and security." The measures spelt out in Articles 41 and 42 give teeth to otherwise empty rhetoric by the Security Council: they are the core of the system of collective security envisaged by the Charter.

The resolutions worthy of note are Nos. 660,⁶ 661⁷ and 678.⁸ The string of resolutions showed a solidarity among the Security Council members

⁴ Article 24(1). It has been suggested that the five permanent members of the Security Council wrested this power for themselves as victors after the Second World War.

⁵ *I.e.*, S/Res/660 (1990) 2 August 1990, S/Res/661 (1990) 6 August 1990, S/Res/662 (1990) 9 August 1990, S/Res/664 (1990) 18 August 1990, S/Res/665 (1990) 25 August 1990, S/Res/666 (1990) 13 September 1990, S/Res/667 (1990) 16 September 1990, S/Res/669 (1990) 24 September 1990, S/Res/670 (1990) 25 September 1990, S/Res/674 (1990) 29 October 1990, S/Res/677 (1990) 28 November 1990, S/Res/678 (1990) 29 November 1990, S/Res/686 (1991) 2 March 1991, S/Res/687 (1991) 3 April 1991, S/Res/689 (1991) 9 April 1991, S/Res/692 (1991) 20 May 1991, S/Res/699 (1991) 17 June 1991, S/Res/700 (1991) 17 June 1991, S/Res/705 (1991) 15 August 1991, S/Res/706 (1991) 15 August 1991, S/Res/707 (1991) 15 August 1991, S/Res/712 (1991) 19 September 1991, S/Res/715 (1991) 11 October 1991.

⁶ S/Res/660 (1990) 2 August 1990.

⁷ S/Res/661 (1990) 6 August 1990.

⁸ S/Res/678 (1990) 29 November 1990.

which is unprecedented. We will now examine the main features of each of these resolutions.

- (i) Resolution 660 condemned the Iraqi invasion of Kuwait of 2 August 1990 in unequivocal terms and called for the immediate and unconditional withdrawal of all Iraqi forces from Kuwait.
- (ii) Resolution 661 called for the imposition of economic sanctions on Iraq which is the most comprehensive in the whole of UN history. It, *inter alia*, prevents the importation of all goods originating from Iraq or Kuwait; the sale or supply of any products, including weapons or any other military equipment, not including supplies intended strictly for medical and humanitarian purposes; and that all states take appropriate measures to protect assets of the legitimate government of Kuwait and its agencies.
- (iii) Resolution 678 demanded that Iraq comply fully with Resolution 660 and all subsequent relevant **resolutions**; it authorised member states co-operating with Kuwait, unless Iraq fully implemented all the foregoing resolutions on or before 15 January 1991, to use *all necessary means* to uphold and implement Resolution 660 and all subsequent resolutions; and to restore international peace and security in the area [emphasis **added**].

Singapore has not only supported the UNSC resolutions unreservedly, it was among the first of third world countries to denounce the Iraqi invasion, while others hesitated and **fudged**.⁹ This article will concentrate on Singapore's implementation of Resolution 661, which was prompt and decisive.

It may well be asked whether compliance with the resolutions by member states is mandatory. On its face, Article 25 seems to provide the answer: "The Members of the United Nations agree to accept and carry out the *decisions* of the Security Council in accordance with the present Charter [emphasis **added**]." The question that arises is whether resolutions passed by the UNSC amount to "decisions". This is by no means always entirely clear. Another source of difficulty arises when it is not clear whether the Security Council is acting under Chapter VI or Chapter VII of the **Charter**.¹⁰

⁹ Sri Lanka's Defence Minister reportedly said: "We are a poor country. Sanctions are for the rich." Iraq is a major importer of tea from Sri Lanka. See *The Sunday Times*, 12 August 1990.

¹⁰ Chapter VI is headed "Pacific Settlement of Disputes" and Chapter VII is headed "Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression". The Security Council in 1947 to 1949 treated the Indonesia-Netherlands conflict as falling within Chapter VI.

With respect to the Iraqi invasion of Kuwait, however, the condemnation by the world community was unequivocal so that compliance by most member nations to the sanctions was swift and not wrecked by any self-doubt on points of principle as to the legality of the measures adopted. At any rate, it was expressly stated in Resolutions 661 (advocating sanctions) and 678 (advocating use of all necessary means to liberate Kuwait and restore its sovereignty) that the Security Council was acting under Chapter VII of the Charter.¹¹ In particular, paragraph 5 of Resolution 661 called upon "... all states, including states non-members of the United Nations, to act strictly in accordance with the provision of the present resolution" There is no express call anywhere in the Resolution concerning compliance by member states by virtue of Article 25. In Resolution 678, part of its preamble reads: "... determined to secure full compliance with its *decisions* [emphasis added]." This made it quite clear that the string of resolutions passed were "decisions" falling within Article 25. Like most other states, Singapore considered the Security Council resolutions as binding decisions under this Article.

A. Measures Taken by Singapore to Implement Sanctions

Resolution 661 is not the first Security Council resolution to have imposed mandatory sanctions against a state. On December 1966, Security Council Resolution 232¹² called for selective mandatory sanctions on critical commodities by member states against Southern Rhodesia and also provided that the failure or refusal by any of them to implement the Resolution would constitute a violation of Article 25 of the Charter. However, Resolution 661 is unprecedented in that the sanctions called for were the most comprehensive in the whole of the UN history. Support from the world community concerning Resolution 661 was swift and unflagging. In Singapore, various ministries, government agencies and departments took measures, either by passing legislation or by issuing the required directives, to ensure compliance with Resolution 661.

These measures are:

- (i) The Prohibition of Imports and Exports (Iraq) Order (S No. 319 of 1990);
- (ii) The Prohibition of Imports and Exports (Kuwait) Order (S No. 320 of 1990);

¹¹ Also S/Res (1990) 664, 666, 667, 670, 674 and 677.

¹² See generally, Vera Gowlland-Debbas, *Collective Responses to Illegal Acts in International Law - United Nations Action in the Question of Southern Rhodesia* (1990). Also, J.E.S. Fawcett, "Security Council Resolutions on Rhodesia" 41 (1965-66) B.Y.I.L. 103.

(Both these orders were made under the Control of Imports and Exports Act, Chapter 56, 1985 Rev. Ed.)

- (iii) Four Monetary Authority of Singapore ('MAS') Circulars to banks and financial institutions:
- a) MAS Circular No. **BFIG 9/90** to All Banks in Singapore on Kuwaiti assets in Singapore. (See Annex A, *infra*.)
 - b) MAS Circular No. **BFIG 10/90** to All Banks in Singapore on Iraqi assets in Singapore. (See Annex B, *infra*.)
 - c) MAS Circular No. **BFIG 11/90** to All Other Financial Institutions¹³ in Singapore on Kuwaiti Assets in Singapore. (See Annex C, *infra*.)
 - d) MAS Circular No. **BFIG 12/90** to All Other Financial Institutions in Singapore on Iraqi Assets in Singapore. (See Annex C, *infra*); and
- (iv) A Marine Circular to Shipowners from the Director of Marine.

1. *Prohibition of imports and exports*

The Prohibition of Imports and Exports (Iraq) Order and the Prohibition of Imports and Exports (Kuwait) Order came into force on 24 August 1990. Goods originating in or manufactured wholly or mainly in Iraq and Kuwait were absolutely prohibited from being imported into Singapore.¹⁴ Goods of any origin exported from Singapore to Iraq and Kuwait were also absolutely prohibited. However, imports of goods despatched from Iraq or Kuwait to Singapore before 6 August 1990, *i.e.*, the date of passing of Resolution 661, if proved to the satisfaction of the Controller of Imports, were exempted. Where exports are concerned, goods despatched from Singapore to Kuwait and Iraq on or before 24 August 1990 were also similarly exempted. Both Orders provided for fines or a term of imprisonment or both upon **contravention**.¹⁵

The orders were made by the Minister for Trade and Industry, pursuant to section 3 of the Control of Imports and Exports Act. The Prohibition

¹³ *I.e.*, merchant banks, stockbroking companies.

¹⁴ As early as 1965, the Prohibition of Imports (South Africa) Order was made. Note that exports to South Africa were not prohibited. The Prohibition Order has since been revoked: see G.N. No. S79/92 dated 6 March, 1992.

¹⁵ For the first offence, the penalty is a fine not exceeding \$10,000 or 3 times the value of the goods whichever is the greater or to a term of imprisonment not exceeding 12 months; repeat offenders face a higher penalty.

of Imports and Exports (Kuwait) Order was rescinded on 28 March 1991 (S.C. Supp. No. 16, No. S130). That against Iraq remains in force.

2. MAS directives

The freeze of Iraqi and Kuwaiti assets in Singapore was the result of directives issued by MAS to all banks and financial institutions. This was an unprecedented move. MAS invoked section 49(1)(d) and section 49(2) of the Banking Act,¹⁶ and section 28(3) of the Monetary Authority of Singapore Act,¹⁷ as the basis of its authority. Section 49(1)(d) reads:

- (d) ... where the Authority considers it *in the public interest* [emphasis added] to do so, the Authority may exercise any one or more of the powers specified in subsection (2) as appears to it to be necessary.

Section 49(2) reads:

Subject to sub-section (1), the Authority may -

- (a) require the bank concerned forthwith to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary;
- (b) appoint a person to advise that bank in the proper conduct of its business; or
- (c) assume control of and carry on the business of that bank or direct some other person to assume control of and carry on the business of that bank.

Whereas section 28(3) of the MAS Act provides:

Without prejudice to the generality of section 27,¹⁸ the authority may, *if it thinks it necessary or expedient in the public interest*, give directions either of a general or special nature, to approved financial institutions or any class or classes of approved financial institutions in relation to —

¹⁶ Cap. 19, 1985 Rev. Ed.

¹⁷ Cap. 186, 1985 Rev. Ed.

¹⁸ Section 27 empowers the MAS to request information from, and to issue any directions for compliance to, financial institutions. Emphasis added.

- a) the range of activities that they may engage in or the range of services that they may provide;
- b) the terms and conditions under which they may carry on a **particular** activity or provide a particular service; and
- c) all matters in which it appears to the Authority that the activities that they engage in or the services that they provide affect or are likely to affect monetary or economic policy or credit conditions or the development of Singapore as a financial centre.

The freezing order was in very broad terms. This can be seen in the definition of "asset", which

... includes, but is not limited to, monies, deposits with any bank or financial institutions, savings accounts, current accounts, funds kept with or managed by any bank or financial institution, bills of exchange and negotiable instruments in any form, shares, stocks, bonds, commercial papers, treasury bills and notes, coupons, warrants, options on securities, any other financial securities, any financial instruments, futures contracts or options thereof, insurance policies, commodities, bullion, or any property whether movable or immovable, or mortgages, pledges, liens or other rights in the nature of security or any contract of any nature whatsoever.

The same definition was repeated in all four MAS circulars. (See Annexes A, B, C and D, *infra*, for the full text.)

However, not all transactions by legitimate owners of Kuwaiti assets in Singapore were prohibited, provided (i) these transactions did not adversely affect the operations and position of financial institutions in Singapore; (ii) the parties acting on behalf of the legitimate owners had due authority to carry out such transactions and these parties were recognised by the Singapore Government; and (iii) these transactions would not result in the assets being transferred to Iraq or Kuwait.

At the time of the Iraqi invasion of Kuwait, the London-based Kuwait Investment Office held a 33 per cent stock in a premier office-cum-shopping unit, *i.e.*, the OUB Centre, a nine per cent stock in Sembawang Shipyard, a nine per cent stock in Cycle and Carriage as well as interests in other companies in **Singapore**.¹⁹ Loans to Kuwait and Iraq by both foreign banks and local banks exceeded hundreds of millions of dollars.

¹⁹ *The Straits Times*, 4 August 1990.

The use of the "public interest" factor in freezing Iraqi and Kuwaiti assets in Singapore is understandable in the light of the substantial holdings of the Kuwait Investment Office in Singapore. Furthermore, Singapore did not have the equivalent of the International Emergency Economic Powers Act (1977)²⁰ (of the United States of America) which empowered President George Bush to sign an Executive Order freezing Iraqi property and assets in the United States on the day of the invasion, *i.e.*, 2 August 1990. Nor does Singapore have the equivalent of the United Kingdom Emergency Laws (Re-enactments and Repeals) Act 1964(a), which enabled the Treasury Secretary in the UK to do *likewise*.²¹ However, as the "public interest" criterion referred to above is broad enough, it is submitted that the same objective of the freezing of assets could be achieved without the need to pass any emergency legislation.

Under Article 150(1) of the Constitution of the Republic of Singapore, the President has powers, in an emergency, to issue a Proclamation of **Emergency**.²² Three types of emergency situation have been identified in modern times. First, the actual conduct of war or preparation when war is imminent; secondly, the threat or presence of internal subversion; thirdly, an emergency caused by the collapse or potential collapse of the economy. The situation must therefore be exceptional. It would be stretching the bounds of imagination to suggest that the invasion of Kuwait amounted to a grave emergency threatening the economic life of Singapore such that Article 150(1) is to be invoked.

3. Marine Department circular

This is a tersely worded three-paragraph circular (No. 9 of 1990) by the Director of Marine which reproduced the complete text of Resolution 661 as an appendix. In this circular, the attention of shipowners were drawn to paragraphs 3(b) and 3(c) of the said **resolution**.²³ Paragraph 2 of the

²⁰ 50 U.S.C. 1701 *et. seq.*

²¹ See Statutory Instrument 1616 of 1990, *i.e.*, the Control of Gold, Securities, Payments and Credits (Republic of Iraq) Directions 1990 and other related instruments. See also B. R. Campbell & Danforth Newcomb *eds.*, *Impact of the Freeze on Kuwaiti and Iraqi Assets on Financial Institutions and Financial Transactions (1990)*.

²² Article 150(1): If the President is satisfied that a grave emergency exists whereby the security or economic life of Singapore is threatened, he may issue a Proclamation of Emergency. Law inconsistent with the Constitution may be passed in such an event. *Quaere*: Is the President's decision to proclaim an Emergency open to judicial review? There is no Singapore case dealing with this point. See Stephen Kalong Ningkam \, *Government of Malaysia [1968] 2 M.L.J.* 238 (appeal to Privy Council) as a result of a constitutional crisis in Sarawak.

²³ Para. 3(b): "Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait; and any dealings by their nationals or their flag vessels or in their

circular requested shipowners to ensure that Singapore registered ships under their ownership or management do not contravene these provisions. Paragraph 3 of the circular went on to state that any Singapore registered ship which contravenes the sanctions resolution is liable to have its registration cancelled.

The author is not aware of any shipowner having its licence cancelled in an attempt to run the embargo. But arguably, if this was to be done, the question would arise whether the Director of Marine is empowered to do so. The circular presumes that states are bound by the sanctions, but in the absence of enabling legislation, are individuals bound by the sanctions? It is submitted that the circular is by its nature only of persuasive force. But if compliance is, nevertheless, obtained, it is perhaps moot to insist that it ought to have been in another legal form.

Of course, exports to Iraq and Kuwait, or imports from those two countries, are already prohibited under the relevant prohibition orders but it is arguable that the circular does not have the force of law.

The measures in the circular came into effect on 24 August 1990. They were lifted on 25 March 1991 after the major Western countries, *e.g.*, United States of America, United Kingdom, France and Germany lifted their respective sanctions.

B. *Use of All Necessary Means*

Resolution 678 is a watershed in UN history. For the first time in the history of the Security Council, all the 5 permanent members were present when the vote was taken and none had vetoed a resolution allowing the collective use of force in response to an act of aggression by a state. As is well known, a basic feature of the collective security system is that the permanent members of the Security Council - the "Big Five" - can block any of its substantive decisions by their veto. At the height of the Cold War, the power of the veto was repeatedly used. It was impossible to get an agreement to take enforcement action under Article 42.

territories in any commodities or products originating in Iraq or Kuwait and exported therefrom after the date of the present resolution, including in particular any transfer of funds to Iraq or Kuwait for the purposes of such activities or dealings."

Para. 3(c): "The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purposes of any business carried on or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products."

Resolution 678 had authorised "all necessary means" to be used to restore international peace and security in the Gulf region. (The original phrase used was "the use of force".) The Security Council is fully authorised to recommend that military as well as non-military measures be taken to maintain or restore international peace and security under Chapter VII of the UN Charter.

However, the legality of Resolution 678 of 29 November 1990 has been questioned as being outside the scope of the UN charter. Article 42 says that a precondition to the authorisation of military action is that the Security Council must have considered that non-military action has proven to be inadequate. It was argued that the non-military actions were simply not given time to work. But one may look to other Articles under Chapter VII which would provide the source of the Council's authority. For instance, Article 39 gives the Security Council a general power to make recommendations "to maintain international peace and security." Since nowhere in the Charter is a threat to the peace, breach of the peace or act of aggression defined, the Security Council has a very wide discretion indeed to make the determination under it (*i.e.*, Article 39). Or, one may resort to Article 51, which provides that the Security Council may "... take at any time such action as it deems necessary in order to maintain or restore international peace and security". On balance, it is my view that the Security Council had acted properly within its powers. Some commentators have, however, thought **differently**.²⁴

C. *Support of Security Council Measures*

Under paragraph 3 of Resolution 678, the Security Council "requests all states to provide support for the action undertaken in pursuant to paragraph 2 of this Resolution" (*i.e.*, the use of "all necessary means"). Since this is couched in the form of a request, it remains for each state to work out the extent of support it is prepared to give. This is largely a matter of national policy. Support for the UN measures was clearly shown when on 18 January 1991 Singapore sent a contingent of 30 Ministry of Defence medical personnel comprising regulars, reservists and national servicemen to Saudi Arabia for the treatment of war casualties. This move was said to be a "...humanitarian gesture by Singapore in accordance with UN Security Council Resolution 678".²⁵

²⁴ See Burns H. Weston, "Security Council Resolution 678 and Persian Gulf Decision Making: Precarious Legitimacy" 85 A.J.I.L. 516 (1991). He described Resolution 678 as being of doubtful legitimacy though it may have been "legal in the technical sense." (at p. 527.)

²⁵ Singapore Government Press Release No. 16/JAN 09-0/91/01/17.

On 23 April 1991, the Government of Singapore announced it was sending a seven-member Singapore Armed Forces team to participate in the UN Iraq-Kuwait Observer Mission. This was in response to a request for assistance from the UN Secretary-General. This was not the first time Singapore participated in an UN peace-keeping effort. In April 1989, Singapore sent police monitors and election supervisors (under the UN Transition Assistance Group) to oversee elections that led to Namibia's independence. The press release²⁶ went on to say that such participation was "in accordance with the UN Security Council Resolutions 687 and 689".

While the Singapore Government supported Resolution 678, it regretted the failure of all the peace initiatives undertaken to implement the UN Resolutions. The international community could no longer remain passive, given Iraq's continued defiance of the UN Resolutions. Failure to implement the UN Resolutions would have undermined respect for international law as well as the credibility of the UN. This would not be in the long term interests of all nations and especially small states like Singapore.²⁷

III. LESSONS FOR SINGAPORE

The UN Security Council resolutions have great relevance, not only for the development of international law, but for the long term survival of small states like Singapore. This was stated by President Wee Kim Wee in his speech at the opening of Parliament on 22 February 1991. The lesson of Kuwait, he said, is that we should not neglect our national security. Singapore had taken a firm stand because "... we have a vested interest in not condoning a stronger country using force against a weaker one." Our security in the region would be greatly enhanced by respect for and adherence to the norms of international law. At home and abroad, there is a need to actively promote respect for and the development of international law and institutions as a fundamental element of our foreign policy.

Hitherto, the concept of international peace and security has been defined exclusively in military terms. What is more destabilising potentially is the increasingly widening gap between the rich and poor, the "haves" and "have-nots". This is even more so now with the dissolution of the Union of Soviet Socialist Russia – the United States of America is effectively the only superpower. As President Bush said recently at the Singapore Lecture,²⁸

²⁶ No. 24/April 09-0/91/04/23, Ministry of Foreign Affairs. Thirty-two other UN Member States participated to form a 300-strong observer team.

²⁷ MFA Press Release, 17 January 1991.

²⁸ On 6 January 1992. Other distinguished lecturers in this annual lecture series included Giscard D'Estaing, Bob Hawke, Henry Kissinger, Milton Friedman, and Mahathir b. Mohamad.

both ethnicity problems and regional conflicts remain which threaten international order and stability.

The spate of UNSC resolutions arising from the Gulf Crisis and the practical measures taken by States²⁹ to implement them are, in my view, the appropriate response to the "trigger-happy" adventurism of dictators and aggressors. The mandatory economic sanctions imposed were effective primarily because the world community was prepared to see them work, and because there was also in force an international military blockade - quite unlike the Rhodesian situation.

Foo KIM BOON*

²⁹ See E. Lauterpacht, C.J. Greenwood, Marc Weller and Daniel Bethlehem (eds.), *The Kuwait Crisis: Basic Documents 1991*, and Vols. I and II: *Economic Sanctions*.

* B. Comm. (Hons.) (B'ham.), LL.B. (N.U.S.), LL.M. (Lond.); State Counsel, Attorney-General's Chambers; Advocate & Solicitor (Singapore).

ANNEX A

THE MONETARY AUTHORITY OF SINGAPORE

Circular No. **BFIG** 9/90*
OUR REF: **BFI BK** 016/90 DATE: 24 August 90

To The Chief Executive Officer
Of All Banks

Dear Sir,

Kuwaiti Assets in Singapore

The Monetary Authority of Singapore ("the Authority") in exercise of its powers, pursuant to Section 49(1)(d) and Section 49(2) of the Banking Act and being satisfied that it is in the public interest to do so, hereby directs your bank to comply with the following Directives, with respect to the assets in Singapore belonging to or owned by Kuwait, the Government of Kuwait, its agencies, instrumentalities, or controlled entities; or any person or entity residing in Kuwait:-

Directive 1

No asset which is in the possession of or control of any bank, or indirectly through any of its nominee company or otherwise, in which Kuwait, the Government of Kuwait; or any person or entity residing in Kuwait, has any interest of any nature whatsoever shall be transferred, paid, exported, withdrawn or otherwise dealt in except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

Directive 2

No bank shall in any way, directly or indirectly, extend credit facilities to or permit draw-downs or performance of existing credit facilities, to Kuwait, the Government of Kuwait, or any person or entity residing in Kuwait, except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

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Directive 3

No bank shall effect or complete any transaction whether contractual or otherwise with Kuwait, the Government of Kuwait; or any person or entity residing in Kuwait, except with the **Authority's** approval and subject to any condition or direction as may be imposed by the Authority.

Definitions

For the purposes of these Directives, unless the context otherwise **requires**:-

- i) "Asset" includes, but is not limited to, monies, deposits with any bank or financial institution, savings accounts, current accounts, funds kept with or managed by any bank or financial institution, bills of exchange and negotiable instruments in any form, shares, stocks, bonds, commercial papers, treasury bills and notes, coupons, warrants, options on securities, any other financial securities, any financial instruments, futures contracts or options thereof, insurance policies, commodities, bullion, or any property whether movable or immovable, or mortgages, pledges, liens or other rights in the nature of security or any contract of any nature whatsoever.
- ii) "Bank" means a bank as defined in the Banking Act.
- iii) "Kuwait" means the Emirate and the State of Kuwait.
- iv) "Government of **Kuwait**" means the Government of the Emirate of Kuwait or any entity purporting to be the Government of Kuwait; and includes agencies, instrumentalities and controlled entities (including the Central Bank of Kuwait) thereof.

Proviso

Furthermore, in accordance with the UN Resolution **661** which also calls upon all States to assist the legitimate Government of Kuwait and to take appropriate measures to protect the assets of the legitimate Government of Kuwait and its agencies; the Authority would, therefore, allow transactions by the legitimate owners of Kuwaiti assets in Singapore which meet the following conditions:-

- the transactions will not result in an adverse impact on the operations and position of the Singapore financial institution(s) concerned in the transactions;
- it can be demonstrated that the parties acting on behalf of these legitimate owner are duly authorised to carry out these transactions and these parties are recognised as such by the Singapore Government; and
- the transactions will not result in the assets being transferred whether directly or indirectly to Iraq or Kuwait, or to the newly installed regime in Kuwait, or for their account.

These Directives shall come into force with immediate effect.

Please acknowledge receipt of this Circular.

Yours faithfully

Sd
Lee Ek Tieng
Managing Director

ANNEX B

THE MONETARY AUTHORITY OF SINGAPORE

Circular No. **BFIG** 10/90
OUR REF: **BFI BK** 016/90 DATE: 24 August 90

To The Chief Executive Officer
Of All Banks

Dear Sir,

Iraqi Assets in Singapore

The Monetary Authority of Singapore ("the Authority") in exercise of its powers, pursuant to Section 49(1)(d) and Section 49(2) of the Banking Act and being satisfied that it is in the public interest to do so, hereby directs your bank to comply with the following Directives, with respect to the assets in Singapore, belonging to or owned by Iraqi, the Government of Iraq, its agencies, instrumentalities, or controlled entities, or its nationals, or any entity owned or controlled, directly or **indirectly**, by Iraq or Iraqi nationals; or any person or entity in **Iraq**:-

Directive 1

No asset which is in the possession of or control of any bank, or indirectly through any of its nominee company or otherwise, in which Iraq or its nationals; or any entity owned or controlled, directly or **indirectly**, by Iraq or Iraqi nationals; or any person or entity in Iraq, has any interest of any nature whatsoever shall be transferred, paid, exported, withdrawn or otherwise dealt in except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

Directive 2

No bank shall in any way, directly or **indirectly**, extend credit facilities to, or permit draw-downs or performance of existing credit facilities, to Iraq or its nationals; or any entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals; or any entity or person in Iraq,

except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

Directive 3

No bank shall effect or complete any transaction whether contractual or otherwise with Iraq or its nationals; or any entity owned or **controlled**, directly or indirectly, by Iraq or Iraqi nationals; or any entity or person in Iraq except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

Definitions

For the purposes of these Directives, unless the context otherwise requires:-

- i) "Asset" includes, but is not limited to, monies, deposits with any bank or financial institution, savings accounts, current accounts, funds kept with or managed by any bank or financial institution, bills of exchange and negotiable instruments in any form, shares, stocks, bonds, commercial papers, treasury bills and notes, coupons, warrants, options on securities, any other financial securities, any financial instruments, futures contracts or options thereof, insurance policies, commodities, bullion, or any property whether movable or immovable, or mortgages, pledges, liens or other rights in the nature of security or any contract of any nature whatsoever.
- ii) "Bank" means a bank as defined in the Banking Act.
- iii) "Iraq" means the State and the Government of the Republic of Iraq, and includes agencies, instrumentalities and controlled entities thereof.

These Directives shall come into force with immediate effect.

Please acknowledge receipt of this Circular.

Yours faithfully

Sd
Lee Ek Tieng
Managing Director

ANNEX C

THE MONETARY AUTHORITY OF SINGAPORE

Circular No. **BFIG 11/90**

OUR REF: **BFI BK 016/90** DATE: 24 August 90

To The Chief Executive Officer
Of All Financial Institutions

Dear Sir,

Kuwaiti Assets in Singapore

The Monetary Authority of Singapore ("the Authority") in exercise of its powers, pursuant to Section 28(3) of the Monetary Authority of Singapore **Act**, and being satisfied that it is in the public interest to do so, hereby directs **your** institution to comply with the following Directives, with respect to the assets in Singapore belonging to or owned by Kuwait, the Government of Kuwait, its agencies, instrumentalities, or controlled entities; or any person or entity residing in **Kuwait**:-

Directive 1

No asset which is in the possession of or control of any financial institution, or indirectly through any of its nominee company or otherwise, in which Kuwait, the Government of Kuwait; or any person or entity residing in Kuwait has any interest of any nature whatsoever shall be transferred, paid, exported, withdrawn or otherwise dealt in except with the **Authority's** approval and subject to any condition or direction as may be imposed by the Authority.

Directive 2

No financial institution shall in any way, directly or indirectly, extend credit facilities to or permit draw-downs or performance of existing credit facilities, to **Kuwait**, the Government of Kuwait, or any person or entity residing in Kuwait, except with the **Authority's** approval and subject to any condition or direction as may be imposed by the Authority.

Directive 3

No financial institution shall effect or complete any transaction whether contractual or otherwise with Kuwait, the Government of Kuwait; or any person or entity residing in Kuwait, except with the **Authority's** approval and subject to any condition or direction as may be imposed by the Authority.

Definitions

For the purposes of these Directives, unless the context otherwise requires:-

- i) "Asset" includes, but is not limited to, monies, deposits with any bank or financial institution, savings accounts, current accounts, funds kept with or managed by any bank or financial institution, bills of exchange and negotiable instruments in any form, shares, stocks, bonds, commercial papers, treasury bills and notes, coupons, warrants, options on securities, any other financial securities, any financial instruments, futures contracts or options thereof, insurance policies, commodities, bullion, or any property whether movable or immovable, or mortgages, pledges, liens or other rights in the nature of security or any contract of any nature whatsoever.
- ii) "Financial institution" means:
 - a merchant bank that is approved as a financial institution under Section 28 of the Monetary Authority of Singapore Act;
 - a dealer or an investment adviser as defined in the Securities Industry Act;
 - a finance company as defined in the Finance Companies Act;
 - a futures broker or a futures trading adviser or a futures pool operator as defined in the Futures Trading Act;
 - a company or society registered under the Insurance Act;
 - a corporation approved by the Monetary Authority of Singapore to establish and operate an Asian Currency Unit; or
 - a financial institution approved by the Monetary Authority of Singapore to carry on the business of dealing in Singapore Government securities.
- iii) "Kuwait" means the Emirate and the State of Kuwait.
- iv) "Government of **Kuwait**" means the Government of the Emirate of Kuwait or any entity purporting to be the Government of Kuwait; and includes agencies, instrumentalities and controlled entities (including the Central Bank of Kuwait) thereof.

Proviso

Furthermore, in accordance with the UN Resolution 661 which also calls upon all States to assist the legitimate Government of Kuwait and to take appropriate measures to protect the assets of the legitimate Government of Kuwait and its agencies; the Authority would, therefore, allow transactions by the legitimate owners of Kuwaiti assets in Singapore which meet the following conditions:-

- the transactions will not result in an adverse impact on the operations and position of the Singapore financial institution(s) concerned in the transactions;
- it can be demonstrated that the parties acting on behalf of these legitimate owner are duly authorised to carry out these transactions and these parties are recognised as such by the Singapore Government; and
- the transactions will not result in the assets being transferred whether directly or indirectly to Iraq or Kuwait, or to the newly installed regime in Kuwait, or for their account.

These Directives shall come into force with immediate effect.

Please acknowledge receipt of this Circular.

Yours faithfully

Sd
Lee Ek Tieng
Managing Director

ANNEX D

THE MONETARY AUTHORITY OF SINGAPORE

Circular No. **BFIG 12/90**
OUR REF: BFI BK 016/90 DATE: 24 August 90

To The Chief Executive Officer
Of All Financial Institutions

Dear Sir,

Iraqi Assets in Singapore

The Monetary Authority of Singapore ("the Authority") in exercise of its powers, pursuant to Section 28(3) of the Monetary Authority of Singapore Act, and being satisfied that it is in the public interest to do so, hereby directs your institution to comply with the following Directives, with respect to the assets in Singapore, belonging to or owned by Iraq, the Government of Iraq, its agencies, instrumentalities, or controlled entities, or its nationals, or any entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals; or any person or entity in **Iraq**:-

Directive 1

No asset which is in the possession of or control of any financial institution, or indirectly through any of its nominee company or otherwise, in which Iraq or its **nationals**; or any entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals; or any person or entity in Iraq, has any interest of any nature whatsoever shall be transferred, paid, exported, withdrawn or otherwise dealt in except with the Authority's approval and subject to any condition or direction as may be imposed by the Authority.

Directive 2

No financial institution shall in any way, directly or indirectly, extend credit facilities to, or permit draw-downs or performance of existing credit facilities, to Iraq or its nationals; or any entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals; or any entity

or person in Iraq, except with the Authority's approval and **subject** to any condition or direction as may be imposed by the Authority.

Directive 3

No financial institution shall effect or complete any transaction whether contractual or otherwise with Iraq or its nationals; or any entity owned or controlled, directly or **indirectly**, by Iraq or Iraqi nationals; or any entity or person in Iraq except with the **Authority's** approval and subject to any condition or direction as may be imposed by the Authority.

Definitions

For the purposes of these Directives, unless the context otherwise requires:-

- i) "Asset" includes, but is not limited to, monies, deposits with any bank or financial institution, savings accounts, current accounts, funds kept with or managed by any bank or financial institution, bills of exchange and negotiable instruments in any form, shares, stocks, bonds, commercial papers, treasury bills and notes, coupons, warrants, options on securities, any other financial securities, any financial instruments, futures contracts or options thereof, insurance policies, commodities, bullion, or any property whether movable or immovable, or mortgages, pledges, liens or other rights in the nature of security or any contract of any nature whatsoever.
- ii) "Financial institution" means:
 - a merchant bank that is approved as a financial institution under Section 28 of the Monetary Authority of Singapore Act;
 - a dealer or an investment adviser as defined in the Securities Industry Act;
 - a finance company as defined in the Finance Companies Act;
 - a futures broker or a futures trading adviser or a **futures**pool operator as defined in the Futures Trading Act;
 - a company or society registered under the Insurance Act;
 - a corporation approved by the Monetary Authority of Singapore to establish and operate an Asian Currency Unit; or
 - a financial institution approved by the Monetary Authority of Singapore to carry on the business of dealing in Singapore Government securities.
- iii) "Iraq" means the State and the Government of the Republic of Iraq, including any agency or **instrumentality** thereof.

These Directives shall come into force with immediate effect.

Please acknowledge receipt of this Circular.

Yours faithfully

Sd
Lee Ek Tieng
Managing Director